

REMARKS/ARGUMENTS

Claims 4, 6-9, 11, and 13-59 are pending. Claims 21 and 40 have been withdrawn. Claims 1-3, 5, 10, and 12 have been canceled.

Claims 4, 6-9, 11, 13-20, 22-39, and 41-59 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,541,852 to Eyuboglu et al. (Eyuboglu) in view of Applicants' admitted prior art (AAPA).

As amended, all the pending claims of the subject application comply with all requirements of 35 U.S.C. Accordingly, Applicants request examination and allowance of all pending claims.

Claim Rejections - 35 U.S.C. § 103

Applicants traverse the pending rejection for failure to comply with the requirements of MPEP 706. As described below, the Examiner has failed to clearly articulate the grounds for the pending rejections. As a result, Applicants are unable to provide evidence of patentability and otherwise reply completely at the earliest opportunity. For at least these reasons, Applicants request the issuance of a new non-final Office action at the Examiner's earliest convenience.

MPEP 706 states that "[T]he goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity." In particular, for rejections based on 35 U.S.C. § 103, "the examiner should set forth in the Office action:

(A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,

(B) the difference or differences in the claim over the applied reference(s),

(C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and

(D) an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made." (MPEP 706.02(j))

"Since patent examiners cannot normally be compelled to testify in legal proceedings regarding their mental processes (see MPEP § 1701.01), it is important that the written record clearly explain the rationale for decisions made during prosecution of the application." (MPEP 706.02(j))

Here, the Examiner has failed to explain at least the difference or differences in the claim over the applied reference and the proposed modification necessary to arrive at the claimed subject matter as required by elements (B) and (C) above. In particular, the Examiner has failed to direct the pending rejection to the language of the pending claims. Thus, since the Examiner has failed to address the claimed subject matter, Applicants are unable to understand the rationale for the Examiner's decisions. For at least these reasons, the pending rejection is improper and should be withdrawn.

On page 5 of the pending Office action, the Examiner states:

"it is noted Eyuboglu et al differs from the present invention in that it fails to particularly disclose the various standardized configuration of the control unit with respect to the transmitting and receiving terminals as specified in claims 4, 6-9, 11, 13-20, 22-39, and 41-59."

However, despite the Examiner's assertion, none of the pending claims, in particular, the independent claims 4 and 11, recite "various standardized configuration of the control unit." Applicants are unable to determine the source of these alleged claim elements or how the Examiner's language relates to the pending claims.

Because the pending rejection does not explain the difference or differences in the claim or the proposed modification necessary to arrive at the claimed subject matter, the rejection fails to comply with MPEP 706 and MPEP 706.02(j) in particular. Although Applicants desire to provide an effective reply to the pending rejections, the failure of the pending rejection to address the claim language prevents Applicants from so responding. Accordingly, Applicants respectfully request the issuance of a new non-final Office action that clearly articulates the grounds for the pending rejection, including recitation of pending claim language, in compliance with MPEP 706.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

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